



MONTGOMERY COUNTY ETHICS COMMISSION

Steven Rosen
Chair

Kenita V. Barrow
Vice Chair

July 8, 2016

Waiver 16-06-014

Pursuant to 19A.06.02.04.4.3 of the County's ethics regulations, a public employee may not work for an entity where an economic interest is held by a person the employee supervises or who supervises the County employee.

Rob Rutten is a Captain in the Montgomery County Fire and Rescue Service at Station 18. Ryan Smet is a Firefighter who was recently transferred to Station 18, C Shift, for which Captain Rutten is responsible for overseeing station and emergency operations.

Rocky Gorge Detective Agency is a business owned and operated by Captain Rutten. Firefighter Smet is an employee of Rocky Gorge Detective Agency. Both Captain Rutten and Firefighter Smet have previously sought and had approved by the Ethics Commission outside employment requests to work at Rocky Gorge Detective Agency. In accordance with Ethics Commission requirements, both Captain Rutten and Firefighter Smet have submitted new requests for outside employment.

Both Captain Rutten through his ownership and operation of Rocky Gorge Detective Agency and Firefighter Smet through his employment arrangement with the company have an economic interest in the company.

Pursuant to § 19A-8(b)(3) of the Public Ethics Law, the Ethics Commission may grant a waiver of the outside employment prohibitions if the Ethics Commission concludes that the proposed employment is not likely to create an actual conflict of interest.

Captain Rutten has submitted a request for a waiver, supported by the Chief of the Fire and Rescue Service, which states that there is no actual conflict of interest present. The regulatory provision prohibiting employees from working in outside employment circumstances where the employee's superior or subordinate is working is based on a likelihood that there could be some compromising of one or both of their official responsibilities because of the outside business relationship. Captain Rutten's submission establishes that while he is the Captain of the station where Firefighter Smet is employed, Captain Rutten has no control or influence over Firefighter

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Smet's salary, overtime, benefits, leave, assignments, evaluations or transfer. As a consequence, there is no reason to believe that either Captain Rutten or Firefighter Smet would in any way compromise their official duties by virtue of an outside business relationship.

Upon a review of the request and the Department's concurrence in and support for the waiver request, the Commission finds that there is no actual conflict of interest. Pursuant to the standard of § 19A-8(b)(3), the Commission grants the waiver of the prohibition of 19A.06.02.04.4.3.

In reaching this decision, the Commission has relied upon the facts as presented by Captain Rutten. The waiver shall become null and void should the facts change and Captain Rutten in his official capacity is in a position to take action that materially affects Firefighter Smet's employment circumstances in his County position.

For the Commission:



Steven Rosen, Chair